



Who can get special education?

Important! Metro Nashville Public Schools call special education “exceptional education”. The name doesn’t matter. The law is the same.

Before age 6, children can get special education if they are behind in:

- Thinking and learning
- Doing things for themselves
- Seeing
- Hearing, talking, using words
- Growing, walking, moving
- How they talk and act with other people



Children ages 6 to 22 can get special education **IF** they have one of these **disabilities**:

- Intellectual Disability (Mental retardation) **OR**
- Hearing problems **OR**
- Problems talking or using words **OR**
- Problems seeing **OR**
- Serious emotional disturbance **OR**
- Problems walking or using their arms **OR**
- Autism **OR**
- Brain injury **OR**
- Other health problems **OR**
- Learning disabilities **OR**
- Deaf-blindness **OR**
- Multiple disabilities **OR**
- They are age 3 to 9 and can’t do what other kids the same age can do.

Do all children with one of these disabilities get special education? No. A child has to have a disability **AND need special help to learn.**

Some children are smarter than other children the same age. This is called being **gifted**. In Tennessee and some other states, gifted students can get special education. Gifted children are in special education to get extra help to learn more. Children in elementary school are tested to see if they are gifted. If you think your child is gifted, you can ask to have your child tested.



Do gifted students have the same rights as other special education students? No.

- If gifted students behave badly, the rules are the same as for students without disabilities. What if the student is gifted AND has a disability? Then they follow the rules for students with disabilities.
- In Tennessee, gifted children under age 5 can’t get special education.
- Gifted students don’t have to be with students not in special education.

A child must be tested to get special education

Before your child can get special education, there are several steps to go through. The first

step is asking to have a child tested to see if he or she can get special education. This is called **referral**. You can ask to have your child tested. So can your child's teacher or your doctor. The school pays for testing.

It is best to ask for the testing in writing. You can use the blue sample letter with this booklet. Keep a copy of the letter.

The testing shows if your child has a disability. The testing is called an **assessment** or **evaluation**. The school pays for the tests.

Your child should probably be tested **IF**:

- Your child is failing in school **OR**
- Your child has problems obeying the rules **OR**
- Your child has trouble seeing, hearing, speaking or moving.

The school can't test your child unless you give the school an OK.

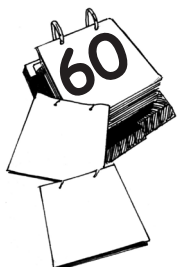
This is true no matter who asks to have your child tested. The school calls your OK **parental consent**. You give an OK by signing a paper. The paper says what you have agreed to let the school do. It says if your child's records will be given to anyone else. It says who will get the records. Do you have to give an OK? No. What if you change your mind later? You can take your OK back.



What if you don't give your OK? Then the school can't test your child for special education.

If you ask to have your child tested, how long does it take?

The federal special education law (IDEA) says it must be done in **60 calendar days**. Calendar days count every day on the calendar, even weekends and holidays. The 60 days start when the school



gets your OK for testing. Tennessee state law says testing must be done in **40 school days**. School days only count days when school is open. It doesn't count weekends, holidays or the summer.

Which rule does the school have to follow -- 40 school days? **OR** 60 calendar days? They should do the one that is quickest.

Your child's teacher or your doctor can also ask to have your child tested. But only you can OK testing.

What if the school takes longer than the 40 or 60 days? Send the school a letter. See the yellow sample letter with this booklet.

Is it ever OK for the school to take longer? Yes, if you don't get your child to school for the tests. Or if you move to a different school district. If you move, you will need to ask the new school to do testing.

Make sure your child is at school for the testing. If your child keeps missing it, the school doesn't have to do the testing.



If you give your OK, a Team will decide what tests need to be done. Most schools call this the Assessment Team or Evaluation Team. You know more about your child than anyone else does. **You are an important part of the Assessment Team**. The Team may meet to decide what tests to give. **OR** they may use the phone or e-mail.

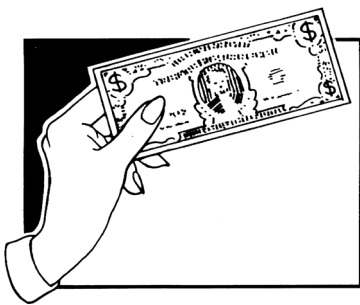
Has your child been tested somewhere else? Tell the Team. If they have enough information, they may decide no more tests are needed. The school must tell you in writing what tests will be done.

Does your child have trouble speaking English? Then the tests **must** be given in the language you speak at home. A child can't be put in special education because of trouble speaking English. Does your child need to be tested in the language your child speaks at home? Then tell the rest of the Team.

Sometimes schools give tests to all students. Does the school have to get your OK first? No, not if the same test is given to all students the same age or grade.

After the testing, the Assessment Team meets again. They look at what the tests show. The school must explain to you what the tests show. They must use easy to understand words.

Do you think the tests are wrong? Then you can ask the school to re-test your child. You can ask to have testing done by someone who doesn't work for the school. This is called an **independent educational evaluation**.



You have the right to have **the school pay** for the independent test. But, you can only ask for this if you disagree with the school's tests. And, the school only has to pay for **1**

independent test each time you disagree. What if you want more independent tests? Then you must pay for them.

Do you want the school to pay for an independent test? It is best to ask in writing. You can use the green sample letter with this booklet.

What happens when you ask for an independent test? The school has 2 choices:

1. It can pay for the test **OR**
2. It can ask for a hearing to prove no more tests are needed.

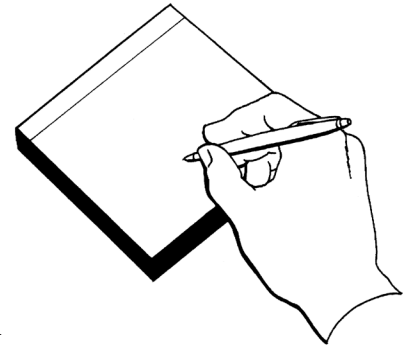
Do you want to get the independent tests done yourself? There are rules about who can do the tests even if you pay for it. Ask the school what the rules are.

If there is a hearing, it can be by phone or in person. You get a chance to say why you want independent tests. You will need to say why you disagree with the school's tests. The school gets a chance to say why it thinks no more tests are

needed. Someone who does not work for the school will decide.

The Assessment Team **must** look at what the independent test shows. This is true no matter who pays for the test.

What if you disagree with what the independent test shows? You have the right to put a note in your child's file. The note should say that you disagree and explain why. The note has to stay in your child's file. It stays there as long as the paper you disagree with is in the file.



Your rights to have your child tested for special education

- You have the right to ask to have your child tested for special education.
- You have the right to refuse to let the school test your child.
- You have a right to be part of the Assessment Team.
- What if you think the tests are wrong? You have the right to ask the school to re-test your child. You can ask for testing by someone who doesn't work for the school. This is called an independent evaluation.
- You have the right to have the school pay for the independent evaluation test.
- What if you disagree with what the independent test shows? You have the right to put a note in your child's file. The note should say that you disagree and explain why. The note has to stay in your child's file. It stays there as long as the paper you disagree with is in the file.

The Assessment Team of school people and you decide if your child can get special education. This step is called **eligibility**. Your child can only

get special education if **all 3** of these things are true:

1. Your child must have a disability. It must be one of the disabilities listed in the IDEA law.

AND

2. Because of the disability, your child must need special education in order to learn.

AND

3. You must give a written OK for your child to get special education for the first time. You have the right to decide if your child gets special education or not.



What if the Assessment Team decides your child can't get special education? Ask if your child can get help from the 504 law. What if your child can't get 504 help? Ask what else the school will do to help your child learn. If your child is having trouble learning, the school still has to help.

What if the school won't help your child? Call one of the groups on the back of this brochure. Ask them for help. They may help you or find someone who can help you.



There will be a meeting to talk about what the tests showed. What if the Assessment Team says your

child can get special education? Then the Team will write an IEP (Individualized Education Program) for your child. Tennessee law says your child must get special education within 40 school days. The 40 days start when you give your OK for testing. Ask for our brochure "Is your child having trouble in school?" It tells you more about testing for special education.

Your rights about your child's school records

- You have the right to decide who can see your child's records.
- You have the right to read and go over all your child's school records. You can also do this before an IEP meeting or hearing.
- You have the right to have the school explain your child's records.
- You have the right to get a free copy of your child's IEP. You should get a new copy any time there are changes.
- You have the right to get copies of your child's records. If you can't pay, the school must give you free copies.
- Do you disagree with something in your child's record? You have a right to put a paper in your child's file saying why you disagree.
- You have the right to have the school destroy your child's old records. This is after your child is no longer in school.

Section 504 is another law that helps children with disabilities

What if your child has a disability but doesn't need special education? Does your child still need help? Your child might get help from another program.

It is called **Section 504**. Section 504 is part of another law called the Rehabilitation Act of 1973.



Section 504 covers all disabilities, not just the ones listed in the IDEA law. It includes health problems that keep a child from doing what other children can do. To get 504 help, a student must have one or more problems with:

- Taking care of self **OR**
- Doing things with his or her hands **OR**
- Walking **OR**
- Seeing **OR**
- Hearing **OR**

- Speaking **OR**
- Breathing **OR**
- Learning **OR**
- Working

504 can help with things like wheelchair ramps so your child can get into buildings. It can make changes so your child can be in school programs and activities. It can also make changes in books or papers to help your child learn.

Do you have a child with a disability who is **NOT** in special education? Ask the school how 504 can help. All schools must have a person to answer questions about 504. Parents have certain rights if their child is in special education. Parents have different rights if their child is on a 504 Plan. To find out more, see our booklet *Can't get special education? A 504 Plan may help*.



NOTE: This information cannot take the place of advice from a lawyer. Each case is different and needs individual legal advice.

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What if the school won't help your child?

One of the places below may help you. Or connect you with someone who can help you.

- In Metro Nashville Public Schools? Call **The Arc of Davidson County - 615-321-5699, ext. 35**. They may be able to help in other counties.
- **Legal Aid Society - 1-800-238-1443**. They help in some counties.
- **Nashville Prevention Partnership - 615-297-7635**
- Metropolitan Nashville Public Defender's Office, Juvenile Division, **The Kids' Rights Program - 615-880-3710**

Ask for our other brochures:

- Is your child having trouble in school?
- What is an IEP?
- Writing an IEP
- Does your child get in trouble at school?
- If you and the school disagree
- Can't get special education? A 504 Plan may help
- Your rights as the parent of a child in special education

I want to have my child tested for special education

Today's date is: _____ My child's date of birth is: _____

My child's first, last and middle name is: _____

My child's school is: _____

My name is: _____

My address is _____

My City, State, Zip code: _____

My phone number is: _____

This is my OK for the school to test my child for special education. I know the testing must be done within 40 school days. The 40 days start the day you get this signed paper. IDEA law says testing can't take longer than 60 calendar days.

If you need me to sign any other papers, please send them to me right away. Thank you.

I am signing this letter to show you have my OK to test my child for special education.

Parent sign here: X _____

**After you sign this paper, give it to your child's school principal or teacher.
Keep a copy!**

**It has been more than 40 school days
since I asked to have my child tested for special education**

Today's date is: _____ My child's date of birth is: _____

My child's first, last and middle name is: _____

My child's school is: _____

My name is: _____

My address is _____

My City, State, Zip code: _____

My phone number is: _____

I asked to have my child tested for special education on this date: _____

The law says you must do the testing in 60 calendar days or 40 school days, whichever is quicker.

It has been longer than 60 calendar days or 40 school days, whichever is quicker. The testing has still not been done. Please let me know right away when this will be done. Am I wrong and the testing has been done? Then have someone call me to set up a time to meet.

Please answer this letter in 7 days.

Parent sign here: **X** _____

**After you sign this paper, give it to your child's school principal or teacher.
Keep a copy!**

I want an independent education evaluation for my child

Today's date is: _____ My child's date of birth is: _____

My child's first, last and middle name is: _____

My child's school is: _____

My name is: _____

My address is _____

My City, State, Zip code: _____

My phone number is: _____

The school tested my child for _____. I disagree with the test. I do not think what it says about my child is right. I want my child tested by someone who does not work for the school district. I want the school to pay for an independent educational evaluation.

Please send me a list of the rules for independent testing and who can do it. Thank you.

Parent sign here: **X** _____

**After you sign this paper, give it to your child's school principal.
Keep a copy!**